



2/27/2014

Testimony to the Labor Committee

February 26, 2014

By Anthony Lopisi, Vista Ventures Program Manager

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H.B. NO. 5279 (RAISED) AN ACT ELIMINATING THE MINIMUM FAIR WAGE EXCEPTION FOR CERTAIN CITIZENS OF CONNECTICUT

My name is Anthony Lopisi and I am the manager of Vista Ventures at Vista Vocational & Life Skills Center. I am writing to express my respectful opposition to the aforementioned bill. Vista Ventures is the division of Vista providing employment opportunities for our membership. I have been in the human services field for over ten years, over five of them working with people with disabilities managing programs and services to support that population. Vista Ventures, the employment arm of the organization, provides a wide array of vocational services to individuals with disabilities. Those services range from situational vocational assessments to job coaching and direct job development services to business development that allows Vista to be a vehicle for employment, providing meaningful work opportunities to people with disabilities.

Below I have submitted employment statistics for the population we serve to demonstrate the variety of ways we as a provider assist people with disabilities in the current job market.

Vista Vocational & Life Skills Center Current Employment Statistics as of February 1, 2014:

- 66% of the 179 Vista students/members (118 students/members) are actively engaged in employment activity.
- Of those 118 students/members:
 - 13% (15 students/members) are in skill-building internships.
 - 4% (5 students/members) are unemployed but actively involved in job development services to secure employment.
 - 83% are in paid employment; employed by either businesses in the community or by Vista Ventures.
 - Of the employed students/members, 85 earn minimum wage or better and 13 participate in a subminimum wage program.
 - Subminimum wage employees work side by side with non-disabled staff and also conduct their work in the

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community where they are in frequent contact with the general population.

- Only individuals interested and having skills in the vocational area are employed in the subminimum wage program. Positions are merit-based with applicants going through a job interview as well as a work assessment to ensure interest and some level of task proficiency.

Vista Ventures' Subminimum Wage Certificate Program:

Vista Vocational & Life Skills Center has been operating a subminimum wage program under Section 14(c) of the Federal Fair Labor Standards Act for the last nine years. Through this program Vista has been able to offer paid work opportunities to over forty Vista students/members over the years and has assisted in the building of meaningful and professional skills for people with disabilities. *The program has allowed people to learn and hone transferable work skills to assist them in securing jobs earning minimum wage or better while still providing stable, meaningful and on-going employment to people whose significant disabilities have made standard or "competitive" employment unsustainable.*

How Subminimum Wage Works:

In order to operate a subminimum wage program, employers must follow a strict, regulated process to ensure the subminimum wage is in compliance with federal and state Department of Labor regulations. One must submit an application with supporting documentation for a Certificate Authorizing Special Minimum Wage Rates under Section 14(c) of the Fair Labor Standards Act with the U.S. Department of Labor, Wage and Hour Division. If approved one can begin operations under this certificate but must meet on-going regulations as to how operations are set up and managed. Certificates must be renewed every two years and supporting documentation must be provided to demonstrate compliance as a part of this process. All employers operating under a subminimum wage program are subject to and must comply with federal and state inspections to ensure compliance between renewal periods. There are two types of subminimum wages authorized by the U.S. Department of Labor, a commensurate hourly wage and a piece rate wage. Currently the Vista Ventures Subminimum Wage Certificate Program operates using a piece rate or the rate we must pay a subminimum wage employee per piece of production.

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The process we must adhere to under this certificate is as follows:

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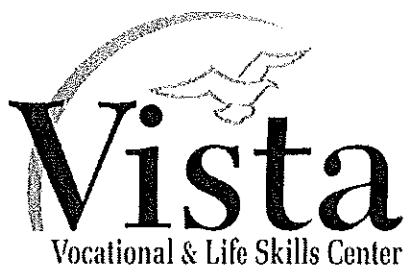
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1. A strict, federally regulated time study must be conducted so that a pay rate can be determined. The time study must be exact in the nature of the tasks, types of equipment used and clearly demonstrate when the measurable task starts and ends. This entire process must be documented so as to be recreated exactly and in its entirety.
2. Each time study must be done by three different people who are able to do the task at a standard or "competitive" pace and quality. They are the standard setters and provide three different time study rates which are then averaged together to provide a more accurate range of standard production rather than relying solely on the results of one individual.
3. Once the "piece rate" is determined it must be compared with the current prevailing wage for the same job in the competitive marketplace. Three business and/or organizations doing similar work in the private sector must be contacted to determine this information and the prevailing wage for what they pay an experienced worker documented. Those three pay scales are then averaged together to provide the average wage someone can expect to earn in that industry doing similar work. Prevailing wage determinations need to be conducted annually to take into consideration any changes in the marketplace such minimum wage increases, etc. and the "piece rate" formula adjusted to reflect any changes.
4. A consistent and federally regulated formula is applied to the time study and prevailing wage results to produce the rate of pieces a typical employee can produce in an hour, taking into account personal time (i.e. bathroom breaks, etc.), fatigue and delay (distractions, small talk with peers, etc.).
5. An individual with disabilities cannot simply be placed into a subminimum wage program. Not only does an employee's disability have to be documented, through educational, medical, psychological, or other professional diagnoses or assessment, prior to subminimum wage eligibility but it needs to be clearly documented how that disability negatively impacts work performance. Disability does not necessarily mean inability to work at a standard or "competitive" level. This proof

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of disability is also regulated for accuracy and compliance by the U.S. Department of Labor.

6. The employer then works at his/her own pace and receives payment for the pieces completed. *It is important to note that a subminimum wage employee with training, time and experience can produce to a point in which they are earning minimum wage or more based on this rate. The formula determining the rate does not restrict employees from greater earning potential. In fact, Vista Ventures has had employees that begin earning below minimum wage and after growing and honing their skills have earned greater than minimum wage.*

In Summation:

The information above has been my professional experience managing a subminimum wage program and complying with relevant state and federal regulations. The ultimate goal for all providers is to support the growth and success of people with disabilities in all aspects of life, work being of significant importance. Driving employment for this population has always been and will continue to be very challenging. It demands a multi-faceted and flexible approach to employment development strategies. The more tools and options a provider has to provide vocational support for individuals with disabilities, the better the chances of improving employability for people who have suffered serious setbacks in the job market over the last ten years. Subminimum wage programs can be that additional tool for providers or employers to combat growing unemployment and underemployment for people with disabilities. If the program is run in compliance with government regulations with the intention of driving employment opportunities, it can be a very positive option to strengthen a provider or employer's ability to better the lives of some of the more challenged individuals in our communities.

As Witnessed and Respectfully Submitted by,

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**Examples of Subminimum Wage Program
Project Pay Scales and Average Pay Per Hour Breakdown**

Introduction: The following three positions outline the types of duties and range of hourly pay for employees of Vista Ventures during a select period of time. The hourly wage as noted is based upon the Department of Labor approved piece rate for the assigned position. Each employee works at his/her own rate of speed or production and earns an hourly wage equivalent to the amount of identified competitive rate for that position. As seen by the stated ranges of pay outlined below, the use of subminimum wage certificates provides employment for a wide range of individuals with disabilities that otherwise would not be afforded opportunities in the competitive work place.

Position 1

- *Work Site Description:* Materials handling, light assembly, picking and sorting, delivery services.
- *Number of Employees:* 13
- *Most Recently Completed Fiscal Quarter :* 1/1/2014 - 3/8/2014
- *Pay Scale Range:* \$1.24/hour - \$8.70/hour
- *Total Average Pay Per Hour:* \$4.03/hour
- *Impact of Eliminating Subminimum Wage Option:* Lay-off 9 subminimum wage employees.

Position 2

- *Work Site Description:* Light assembly, weighing and packing.
- *Number of Employees:* 4
- *Most Recently Completed Fiscal Quarter :* 1/1/2014 - 3/8/2014
- *Pay Scale Range:* \$1.29/hour - \$8.70/hour
- *Total Average Pay Per Hour:* \$4.68/hour
- *Impact of Eliminating Subminimum Wage Option:* Lay-off 2 subminimum wage employees.

Position 3

- *Work Site Description:* Light assembly, sorting, packing, mailers.
- *Number of Employees:* 8
- *Most Recently Completed Fiscal Quarter :* 3/31/2013 (non-continual project)
- *Pay Scale Range:* \$3.35/hour - \$9.12/hour
- *Total Average Pay Per Hour:* \$6.25/hour